IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

INCOME TAX APPEAL NO.91 OF 2003

Su-Raj Diamond Ind. Limited .. Appellant.

V/s.

The Deputy Commissioner of Income-tax, Special Range-26, Mumbai .. Respondent.

Mr.P. Pardiwala with A.K. Jasani for the appellant.

Mr.R.V. Desai, Senior counsel with V.H. Kantharia i/b. P. Kapur for the respondent.

CORAM : R.M. LODHA, &
J.P. DEVADHAR, JJ.

DATED : 21ST SEPTEMBER, 2004.

P.C. :

Heard Mr.P. Pardiwala, the learned counsel for the appellant - assessee and Mr.R.V. Desai, the learned senior counsel for the revenue.

2. In our considered view the facts noticed by the assessing officer lead to irrestible conclusion, as rightly held by the Income Tax Appellate Tribunal, that the export division and the bulk division constituted a single business and the deduction was allowable to the assessee under Section 80HHC on that basis.

3. What the assessing officer noticed is recaptulated by the Tribunal in para 4 of its order. The assessee admitted by its letter dated November 12, 1992 before the assessing officer that the purchases of the bulk division were paid by export division and the sale proceeds had also been received by the export division. The assessee had paid substantial amounts by way of interest charges both to the banks and the sister concerns; however entire expenses on account of interest were only debited to the export division. The assessee used substantial quantity of diamond rough imported in bulk division and the same was shown as transfer. From the profit and loss account of the bulk division, it transpired that large number of items of expenses such as telephone expenses, electricity expenses, motor car expenses, conveyance expenses had not been debited to the bulk division; all these expenses were incurred in export division without being apportioned to bulk division. The finances of both the divisions were common.

4. The Tribunal, in our considered view, examined the matter in right perspective in upsetting the order of the CIT (Appeals) and restoring the findings of the assessing officer that the export

division and the bulk division formed one single business and the deduction was allowable to the assessee under section 80HHC, accordingly.

5. The impugned order of the Tribunal does not suffer from any legal infirmity. No substantial question of law arises in this appeal. The appeal is dismissed in limine.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)